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By: **Chairman, Education, Health, and Environmental Affairs Committee**  
**(By Request - Departmental - Health and Mental Hygiene)**

Introduced and read first time: January 31, 2003  
Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 20, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Maryland Optometry Act – Replacement Contact Lenses – Clarifications and~~  
3 ~~Modifications~~  
4 Department of Health and Mental Hygiene - Selling and Dispensing of  
5 Contact Lenses and Replacement Contact Lenses

6 FOR the purpose of ~~modifying certain prohibitions against selling contact lenses~~  
7 ~~without a valid and unexpired replacement contact lens prescription; requiring~~  
8 ~~the Department of Health and Mental Hygiene to adopt regulations that govern~~  
9 ~~the selling and dispensing of certain contact lenses; prohibiting a person from~~  
10 ~~knowingly selling or dispensing certain contact lenses under certain~~  
11 ~~circumstances; providing that a person who violates a certain provision of law is~~  
12 ~~guilty of a misdemeanor and subject to a certain fine; specifying that certain~~  
13 ~~provisions of law do not limit the right of the State Board of Examiners in~~  
14 ~~Optometry to regulate an optometrist who knowingly sells or dispenses certain~~  
15 ~~contact lenses; providing for the construction of this Act; clarifying a certain~~  
16 ~~terms defined term and certain language; and generally relating to the~~  
17 ~~Maryland Optometry Act selling and dispensing of contact lenses and~~  
18 ~~replacement contact lenses.~~

19 BY adding to  
20 Article - Health - General  
21 Section 24-301.1  
22 Annotated Code of Maryland  
23 (2000 Replacement Volume and 2002 Supplement)

24 BY repealing and reenacting, with amendments,

1 Article - Health Occupations  
2 Section 11-101, 11-404.4, and 11-504  
3 Annotated Code of Maryland  
4 (2000 Replacement Volume and 2002 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Health - General**

8 24-301.1.

9 (A) SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE DEPARTMENT SHALL  
10 ADOPT REGULATIONS THAT GOVERN THE SELLING AND DISPENSING OF CONTACT  
11 LENSES AND REPLACEMENT CONTACT LENSES.

12 (B) A PERSON MAY NOT KNOWINGLY SELL OR DISPENSE CONTACT LENSES OR  
13 REPLACEMENT CONTACT LENSES WITHOUT A VALID AND UNEXPIRED PRESCRIPTION  
14 OR REPLACEMENT CONTACT LENS PRESCRIPTION.

15 (C) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF  
16 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING  
17 \$1,000.

18 (D) THIS SECTION DOES NOT LIMIT THE RIGHT OF THE STATE BOARD OF  
19 EXAMINERS IN OPTOMETRY TO REGULATE AN OPTOMETRIST WHO KNOWINGLY  
20 SELLS OR DISPENSES CONTACT LENSES OR REPLACEMENT CONTACT LENSES  
21 WITHOUT A VALID AND UNEXPIRED PRESCRIPTION OR REPLACEMENT CONTACT  
22 LENS PRESCRIPTION.

23 **Article - Health Occupations**

24 11-101.

25 (a) In this title the following words have the meanings indicated.

26 (b) "Board" means the State Board of Examiners in Optometry.

27 (c) "Diagnostically certified optometrist" means a licensed optometrist who is  
28 certified by the Board to administer topical ocular diagnostic pharmaceutical agents  
29 to the extent permitted under § 11-404 of this title.

30 (d) "License" means, unless the context requires otherwise, a license issued by  
31 the Board to practice optometry.

32 (e) "Licensed optometrist" means, unless the context requires otherwise, an  
33 optometrist who is licensed by the Board to practice optometry.

34 (f) "Optometrist" means an individual who practices optometry.

1 (g) (1) "Practice optometry" means:

2 (i) Subject to §§ 11-404 and 11-404.2 of this title, to use any means  
3 known in the science of optics or eye care, except surgery:

4 1. To detect, diagnose, and subject to §§ 11-404 and 11-404.2  
5 of this title, treat, subject to this title, any optical or diseased condition in the human  
6 eye; or

7 2. To prescribe eyeglasses, LENSES, or CONTACT lenses to  
8 correct any optical or visual condition in the human eye;

9 (ii) To give advice or direction on the fitness or adaptation of  
10 eyeglasses or ~~CONTACT~~ lenses to any individual for the correction or relief of a  
11 condition for which eyeglasses or ~~CONTACT~~ lenses are worn; or

12 (iii) To use or permit the use of any instrument, test card, test type,  
13 test eyeglasses, test lenses, or other device to aid in choosing eyeglasses or ~~CONTACT~~  
14 lenses for an individual to wear.

15 (2) Subject to §§ 11-404 and 11-404.2 of this title, "practice optometry"  
16 includes:

17 (i) The administration of topical ocular diagnostic pharmaceutical  
18 agents;

19 (ii) The administration and prescription of therapeutic  
20 pharmaceutical agents; and

21 (iii) The removal of superficial foreign bodies from the cornea and  
22 conjunctiva.

23 (h) "Therapeutically certified optometrist" means a licensed optometrist who  
24 is certified by the Board to practice optometry to the extent permitted under §  
25 11-404.2 of this title.

26 11-404.4.

27 (a) (1) In this section the following words have the meanings indicated.

28 (2) "Replacement contact lens prescription" means a prescription  
29 prepared by a licensed optometrist containing the information specified in this section  
30 and written expressly for the purpose of providing lenses which have already been  
31 properly fitted.

32 (3) "Immediate follow-up care" is that period of contact lens fitting time  
33 required to reach a contact lens prescription that is appropriate to the documented  
34 clinical needs of the patient.

35 (b) A licensed optometrist shall ensure that each replacement contact lens  
36 prescription that the licensed optometrist prescribes for contact lenses:

- 1           (1)     Contains all the information necessary for the replacement contact  
2 lens prescription to be properly dispensed, including but not limited to the:
- 3                   (i)     Lens manufacturer;
- 4                   (ii)    Type of lens;
- 5                   (iii)   Power of the lens, INCLUDING PLANO OR ZERO-POWERED  
6 CONTACT LENSES;
- 7                   (iv)   Base curve;
- 8                   (v)    Lens size;
- 9                   (vi)   Name of the patient;
- 10                  (vii)   Date the prescription was given to the patient;
- 11                  (viii)   Name and office location of the licensed optometrist who  
12 writes the replacement contact lens prescription; and
- 13                  (ix)    Expiration date of the replacement contact lens prescription;  
14 and
- 15           (2)     Is reduced to writing and placed in the patient's permanent file.
- 16   (c)   (1)   (i)     After a licensed optometrist releases the patient from  
17 immediate follow-up care, the patient may request the replacement contact lens  
18 prescription from the licensed optometrist.
- 19                   (ii)    If, after examination, the patient's prescription has not changed  
20 since the last examination, a licensed optometrist shall comply with the provisions of  
21 paragraph (2) of this subsection without requiring the patient to purchase contact  
22 lenses or to undergo immediate follow-up care.
- 23           (2)   (i)     Upon the request of a patient of a licensed optometrist, and  
24 without cost to the patient, the licensed optometrist shall provide the patient's  
25 replacement contact lens prescription to the patient or the patient's designee.
- 26                   (ii)    In responding to a request under paragraph (1)(i) of this  
27 subsection, a licensed optometrist shall transmit the contact lens prescription by  
28 mail, telephone, facsimile, e-mail, or any other means of communication that will,  
29 under normal circumstances, result in the designee receiving the information within  
30 7 business days after the patient's request.
- 31                   (iii)   The replacement contact lens prescription that the licensed  
32 optometrist provides the patient under subparagraph (i) of this paragraph:
- 33                           1.     Shall contain the information necessary for the proper  
34 duplication of the current prescription of the patient;



1 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of this Act  
2 may not be construed to affect, alter, or modify in any way, the decision in, or results  
3 of, Board of Examiners in Optometry, et al v. Richard Spitz, Jr., 300 Md. 466 (1984).

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2003.